

## **CHAPTER 16**

### **Land Use Code**

#### **Article V**

#### **Vesting of Property Rights**

Sec. 16-5-10	Purpose
Sec. 16-5-20	Definitions
Sec. 16-5-30	Request for site specific development plan approval
Sec. 16-5-40	Notice and hearing
Sec. 16-5-50	Approvals, effective date, amendments, referendum and review
Sec. 16-5-60	Notice of approval
Sec. 16-5-70	Duration of vested property right
Sec. 16-5-80	Other provisions unaffected
Sec. 16-5-90	Payment of costs
Sec. 16-5-100	Limitations



**ARTICLE V****Vesting of Property Rights****Sec. 16-5-10. Purpose.**

The purpose of this Section is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an approved site specific development plan. No vested rights shall be created within the Town except through a site specific development plan. (Ord. 480 §5.1, 2003)

**Sec. 16-5-20. Definitions.**

As used in this Section, unless the context otherwise requires:

*Landowner* means any owner of a legal or equitable interest in real property, and includes the heirs, successors and assigns of such ownership interests.

*Property* means all real property subject to land use regulation by the Town of Milliken.

*Site specific development plan* means and is limited to the *final plat* of a subdivision or a *final site plan* of a PUD Planned Unit Development District (also known as a *final PUD development plan*) when approved by the Board of Trustees by ordinance duly adopted.

*Vested property rights* means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. (Ord. 480 §5.2, 2003)

**Sec. 16-5-30. Request for site specific development plan approval.**

For those developments for which the landowner wishes the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., the landowner shall request the approval in writing at least thirty (30) days prior to the date said approval is to be considered. Failure of the landowner to request such an approval renders the plan not a site specific development plan, and no vested property rights shall be deemed to have been created. (Ord. 480 §5.2, 2003)

**Sec. 16-5-40. Notice and hearing.**

No site specific development plan shall be approved until after a public hearing called for that purpose, preceded by notice of such hearing published as provided by law at least fourteen (14) days before the hearing. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, all interested persons shall have an opportunity to be heard. (Ord. 480 §5.2, 2003)

**Sec. 16-5-50. Approvals, effective date, amendments, referendum and review.**

(a) A site specific development plan shall be deemed approved upon the effective date of the ordinance granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan, including any amendments thereto.

(b) The Board of Trustees may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Such conditional approval will result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.

(c) In the event amendments to a site specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment.

(d) The approval of vested property rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site specific development plan and creation of vested property rights. (Ord. 480 §5.2, 2003)

**Sec. 16-5-60. Notice of approval.**

(a) Each map, plat or site plan or other document constituting a site specific development plan shall contain the following notice: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right.

(b) In addition, the Town shall publish a notice describing generally the type and intensity of the use approved and the specific parcel or parcels of property affected, and stating that a vested property right has been created. The notice shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the Town. (Ord. 480 §5.2, 2003)

**Sec. 16-5-70. Duration of vested property right.**

A property right which has been vested as provided herein shall remain vested for a period of three (3) years; except that the Board of Trustees may, in its sole discretion, grant vested property rights for a longer period when warranted in light of all relevant circumstance, including but not limited to the size and phasing of the development, economic cycles and market conditions. The vesting period shall not be extended by any amendments to a site specific development plan unless expressly authorized by the Board of Trustees in the ordinance approving such amendments. (Ord. 480 §5.2, 2003)

**Sec. 16-5-80. Other provisions unaffected.**

Approval of a site specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development or use of property. (Ord. 480 §5.2, 2003)

**Sec. 16-5-90. Payment of costs.**

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the Town pertaining to such application, including but not limited to publication of notices, public hearing and review costs, county recording fees and review costs. The site specific development plan shall not be recorded until all fees have been paid. (Ord. 480 §5.2, 2003)

**Sec. 16-5-100. Limitations.**

Nothing in this Article is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article shall be deemed to be repealed, and the provisions hereof no longer effective. (Ord. 480 §5.2, 2003)